

[Counsel identified on signature pages]

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

SANTA CRUZ LESBIAN AND GAY  
COMMUNITY CENTER, *et al.*,

Plaintiffs,

v.

JOSEPH R. BIDEN JR., *et al.*,<sup>1</sup>

Defendants.

Case No. 5:20-CV-07741-BLF

**STIPULATION AND ~~PROPOSED~~  
ORDER FOR 60-DAY STAY OF  
PROCEEDINGS**

Hearing Date: April 1, 2021

Time: 11:00 a.m.

Judge: Hon. Beth Labson Freeman

<sup>1</sup> Pursuant to Federal Rule of Civil Procedure 25(d), Joseph R. Biden, Jr., is automatically substituted as a Defendant in his official capacity as President of the United States for former President Donald J. Trump; Al Stewart is automatically substituted as a Defendant in his official capacity as Acting Secretary of Labor for former Secretary Eugene Scalia; Jenny Yang is automatically substituted as a Defendant in her official capacity as Director of the Office of Federal Contract Compliance Programs for former Director Craig E. Leen; Rob Fairweather is automatically substituted as a Defendant in his official capacity as Acting Director of the Office of Management and Budget for former Director Russell Vought; Norris Cochran is automatically substituted as a Defendant in his official capacity as Acting Secretary of Health and Human Services for former Secretary Alex M. Azar II; Monty Wilkinson is automatically substituted as a Defendant in his official capacity as Acting United States Attorney General for former Attorney General William P. Barr; Matt Ammon is automatically substituted as a Defendant in his official capacity as Acting Secretary of Housing and Urban Development for former Secretary Benjamin Solomon Carson, Sr.; Dan Tran is automatically substituted as a Defendant in his official capacity as Acting Secretary of Veterans Affairs for former Secretary Robert Wilkie; and Ann Eilers is automatically substituted as a Defendant in her official capacity as Acting Chairman of the National Endowment for the Arts for former Chairman Mary Anne Carter.

Pursuant to Civil Local Rules 6-2 and 7-12, the parties to this action, by their respective counsel, respectfully submit the following Joint Stipulation:

WHEREAS, for the reasons set forth below, and due to the pending transition to a new Administration, Defendants request a 60-day stay of the case in order to provide for an orderly transition and to let the new Administration assess this case;

WHEREAS Plaintiffs brought this suit “for declaratory and injunctive relief with respect to Executive Order 13950, titled Executive Order on Combating Race and Sex Stereotyping, as violating the First and Fifth Amendments to the United States Constitution,” Compl. ¶ 1;

WHEREAS, on January 20, 2021, President Joseph R. Biden, Jr. signed Executive Order 13985 (“New Executive Order”), titled “Advancing Racial Equity And Support For Underserved Communities Through The Federal Government,” which was published in the Federal Register at 86 FR 7009 (Jan. 25, 2021), with the full text available at <https://www.federalregister.gov/d/2021-01753> (attached to this Stipulation as Exhibit 1);

WHEREAS the New Executive Order revokes Executive Order 13950 of September 22, 2020 (Combating Race and Sex Stereotyping), New Executive Order § 10(a);

WHEREAS the New Executive Order also states that: “The heads of agencies covered by Executive Order 13950 shall review and identify proposed and existing agency actions related to or arising from Executive Order 13950. The head of each agency shall, within 60 days of the date of this order, consider suspending, revising, or rescinding any such actions, including all agency actions to terminate or restrict contracts or grants pursuant to Executive Order 13950, as appropriate and consistent with applicable law,” New Executive Order § 10(b); and

WHEREAS parties previously stipulated to extend the deadline to respond to Plaintiffs’ complaint by 30 days, ECF No. 84, and the requested extension was approved by the Court, ECF No. 85,

THE PARTIES JOINTLY STIPULATE AS FOLLOWS:

a) That the Court enter a 60-day stay of this case, effective beginning on January 29, 2021 and lifting on March 30, 2021, with all deadlines commensurately shifted;

b) That the parties file a Joint Case Management Statement on March 26, 2021, for a Case Management Conference on April 1, 2021 at 11:00 a.m. PT;

c) That, should the parties not reach earlier resolution, the case shall restart on March 28, 2021 under the exact same schedule currently in place, but deadlines extended by 60 days; and

d) That the preliminary injunction entered by the Court in this case will remain in effect during the time of the stay unless the parties are able to reach earlier resolution.

Dated: January 29, 2021

BRIAN M. BOYNTON  
Acting Assistant Attorney General

BRAD P. ROSENBERG  
CARLOTTA P. WELLS  
Assistant Branch Directors

/s/ Zachary A. Avallone  
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*Counsel for Defendants*

Dated: January 29, 2020

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*Counsel for Plaintiffs*  
\*Appearing *pro hac vice*

**CERTIFICATION**

Pursuant to Local Rule 5-1(i)(3), the undersigned hereby attests that I have conferred with counsel for plaintiffs regarding this filing, and that I have obtained the concurrence of each signatory hereto in the filing of this document.

Dated: January 29, 2021

/s/ Zachary A. Avallone

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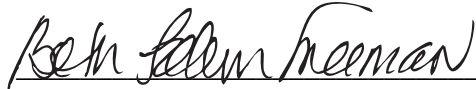
*Counsel for Defendants*

**[PROPOSED] ORDER**

This stipulation is GRANTED.

PURSUANT TO THE PARTIES' STIPULATION, IT IS SO ORDERED.

DATED: January 29, 2021



Hon. Beth Labson Freeman  
United States District Judge

BRIAN M. BOYNTON  
Acting Assistant Attorney General

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**DECLARATION OF ZACHARY A.  
AVALLONE IN SUPPORT OF PARTIES'  
STIPULATION AND [PROPOSED]  
ORDER FOR 60-DAY STAY OF  
PROCEEDINGS**



1 I, Zachary A. Avallone, declare as follows:

2 1. I am a Trial Attorney at the Federal Programs Branch, a career civil-service position  
3 within the Civil Division of the United States Department of Justice. I joined the Department of  
4 Justice in 2020, after working for approximately seven years at the law firm of Kirkland & Ellis  
5 LLP.

6 2. The principal responsibility of the Federal Programs Branch is to defend civil  
7 actions in federal district court in which the legality of Federal Government programs, policies,  
8 and decisions is challenged. The Branch represents the Government in the above-captioned case.

9 3. I make this Declaration on behalf of the Defendants in the above-captioned matter  
10 based on my personal knowledge and information provided to me in the course of my official  
11 duties. I am submitting this Declaration in support of the parties' Joint Stipulation and Proposed  
12 Order for 60-Day Stay of Proceedings ("Joint Stipulation").

13 4. The reasons for the requested enlargement of time are accurately set forth in the  
14 Joint Stipulation.

15 5. With respect to Civil L.R. 6-2(a)(2), parties previously stipulated to extend the  
16 deadline to respond to Plaintiffs' complaint by 30 days, ECF No. 84, and the requested extension  
17 was approved by the Court, ECF No. 85. I am not aware of any other time modifications that have  
18 occurred in this case.

19 6. With respect to Civil L.R. 6-2(a)(3), should the Court enter the stipulated 60-day  
20 stay, all existing deadlines would be commensurately shifted by 60 days. Should the parties not  
21 reach earlier resolution, the case shall restart on March 28, 2021 under the exact same schedule  
22 currently in place, but deadlines extended by 60 days. Parties will file a Joint Case Management  
23 Statement on March 26, 2021, for a Case Management Conference on April 1, 2021 at 11:00 a.m.  
24 PT.

25  
26 I declare under penalty of perjury that the foregoing is true and correct.  
27  
28

Executed on: January 29, 2021

/s/ Zachary A. Avallone  
ZACHARY A. AVALLONE (SBN 295545)